

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
)  
)  
IN THE MATTER OF: BID PROTEST )  
)  
MANER BUILDERS SUPPLY CO. )  
)  
v. )  
)  
COASTAL CAROLINA UNIVERSITY )  
)  
WATSON STADIUM PICKET FENCE )  
PROJECT CCU-FEN08-PTM )  
\_\_\_\_\_ )

**BEFORE THE CHIEF PROCUREMENT  
OFFICER FOR CONSTRUCTION**

**DECISION**

**CASE NO. 2008-0013**

**POSTING DATE:  
APRIL 16, 2008**

This matter is before the Chief Procurement Officer for Construction (CPOC) pursuant to a request from Maner Builders Supply Co., under the provisions of §11-35-4210 of the South Carolina Consolidated Procurement Code, for an administrative review on the Watson Stadium Picket Fence bid ("the Project") for Coastal Carolina University. Maner protests Coastal's posting of a Notice of Intent to Award a contract for construction of the project to Long Fence Co., Inc. [A copy of this email is attached as Exhibit "A"]. Pursuant to S.C. Code Ann. §11-35-4210(3) (Supp. 2006), the CPOC conducted an administrative review. This decision is based on that review and the applicable law and precedents.

#### **NATURE OF THE PROTEST**

On March 20, 2008, Coastal received bids for construction of the Project. After receiving bids, Coastal rejected Maner's bid because Maner did not provide its bid security bond on the form required by the Office of the State Engineer's (OSE) Manual for Planning and Executing a Permanent Improvement Project, Part II (Manual). [A copy of Maner's bid and the accompanying bid bond are attached as Exhibit "B"] Maner protests Coastal's rejection of its bid alleging (1) that Maner submitted Bid Security in the amount of \$100,000.00 (1.35 times its bid amount) clearly indicating its intentions to be bound by all Bid and Contract Documents; and (2) that Maner corrected its mistake and submitted the bid bond on the correct form within 24 hours of the bid date.

## **FINDINGS OF FACT**

1. On March 6, 2008, Coastal solicited bids for the Project. Specific to the protest issues, the solicitation required:

- 4.2 BID SECURITY
- 4.2.1 If required as stated in the SE-310, each Bid shall be accompanied by Bid security in the dollar amount, if any, listed on the SE-330, or in an amount of not less than five percent (5%) of the Base Bid. The bid security shall be:

4.2.1.1 Written on SE-335, Bid Bond, made payable to the Agency; or,

4.2.1.2 An electronic Bid Bond authorization number issued by a firm or organization authorized by the surety to receive, authenticate, and issue binding electronic Bid Bonds on behalf (of) the surety; or,

4.2.1.3 In the form of a certified cashier's check.

- 4.2.2 By providing an electronic bid bond authorization code and signing the Bid Form, the Bidder is certifying that an electronic bid bond has been executed by a Surety meeting the standards required by the Bidding Documents and the bidder and Surety are firmly bound unto the State of South Carolina under the conditions of the SE-335 provided in the Bidding Documents.

- 4.2.3 To be acceptable, a Bid Bond shall:

4.2.3.1 Be issued by a surety company licensed to do business in South Carolina;

4.2.3.2 Be issued by a surety company having, at a minimum, a "Best Rating" of "A" as stated in the most current publication of "Best's Key Rating Guide, Property-Casualty". In addition, the surety shall have a minimum "Best Financial Strength Category" of Class V, and in no case less than five (5) times the contract amount.

4.2.3.3 Be accompanied by a certified and current power of attorney by the attorney-in-fact who executes the bond on behalf of the surety company; and

4.2.3.4 Be enclosed in the bid envelope at the time of the Bid Opening, either in paper copy or as a Bid Bond authorization number provided on the bid form.

- 4.2.6 Bidders submitting a Bid Security not meeting the required amount, surety rating or financial strength rating shall have one working day from the Bid Opening to cure the deficiency or the Bid shall be considered non-responsive. The Bid Security amount submitted with the Bid must be at least 80% of the required amount to be eligible for correction.
- 4.3.5 Any other or special documents requested of the Bidder in these Bidding Documents shall be included in the Bid Envelope. If they are not included with the Bid Envelope, the Bidder shall have twenty-four (24) hours from the time of the Bid Opening to provide these documents or its Bid shall be considered non-responsive.
- ARTICLE 5 CONSIDERATION OF BIDS
- 5.1 COMPLIANCE WITH REQUIREMENTS. To be considered, Bids shall be made in accordance with these Instructions to Bidders. Failure to comply with these bidding requirements may cause a bid to be rejected.
- 5.3 REJECTION OF BIDS
- 5.3.1 The Agency shall have the right to reject any or all Bids, reject a Bid not accompanied by a required Bid security or by other data required by the Bidding Documents, or reject a Bid which is in any way incomplete or irregular.
- 5.3.2 Bids shall be rejected for any of the following reasons, which include, but are not limited to:

5.3.2.3 Failure to comply with Bid Security requirements, except as allowed herein; or,

5.3.2.10 Failure to include a properly executed Power-of –attorney with the bid bond.

- 5.3.3 Bids shall not be rejected for the following reasons, which include, but are not limited to:

5.3.3.12 Bid Bond not signed by the bidder but only if the bond has been properly executed and signed by the bonding company or agent.

- 5.3.4 Bidders shall have one (1) working day from the time of Bid opening to correct the following deficiencies:

5.3.4.1 Failure to provide five percent (5%) Bid Security when required, provided that the Bidder did furnish Bid Security in the proper form equal to at least eighty (80) percent of that required in the SE-310; and

5.3.4.2 Failure to provide a Bid Bond with the proper surety rating and financial strength, provided that the Bidder did furnish Bid Security in the proper form equal to at least eighty (80) percent of that required in the SE-310

### **CONCLUSIONS OF LAW**

Maner responded to the IFB submitting a bid with a bid bond issued by Cincinnati Insurance Company. The bid bond issued by Cincinnati was on its form. Coastal rejected Maner's bid as nonresponsive because Maner did not submit its bid bond on form SE-335, the State's required bid bond form.

As noted above, the IFB required that the bid bond be submitted as either (a) Written on SE-335, Bid Bond, made payable to the Agency; or, (b) an electronic Bid Bond authorization number issued by a firm or organization authorized by the surety to receive, authenticate, and issue binding electronic Bid Bonds on behalf (of) the surety; or, (c) in the form of a certified cashier's check. The bid bond form that Maner submitted met none of these required options.

Maner, argues that it should have been allowed 24 hours after receipt of bids to rectify this situation. The IFB (and the Code) allows correction of bid bonds in some cases, stating that a bid shall be rejected "except that a bidder who fails to provide bid security in the proper amount or a bid bond with the proper rating shall be given one working day from bid opening to cure such

deficiencies. If the bidder cannot cure these deficiencies within one working day of bid opening, his bid shall be rejected.” [SC Code Ann § 11-35-3030(1) (c)] Regarding correction or “cure” of defective bid bonds, the IFB reads as follows:

- 4.2.6 Bidders submitting a Bid Security not meeting the required amount, surety rating or financial strength rating shall have one working day from the Bid Opening to cure the deficiency or the Bid shall be considered non-responsive. The Bid Security amount submitted with the Bid must be at least 80% of the required amount to be eligible for correction. (4.2.6)

As this section clearly reads, a bidder may cure certain bid bond deficiencies including “a Bid Security not meeting the required amount, surety rating or financial strength rating” within 24 hours. (Emphasis added)

The deficiencies of Maner’s bid bond did not fall into the categories where a 24 hour cure period was offered by the code or the IFB. Its bid bond met and exceeded the required amount and there is no evidence or even an assertion by the State that the firm offering the bond did not meet the surety rating and financial strength rating requirements. Instead, Maner’s bid bond did not offer the required terms. There are numerous differences but some of the more obvious (and material) are as follows:

1. Maner’s bond only references the project whereas the State form specifically incorporates the bid of the Principal;
2. Maner’s bond sets time limits for acceptance of the bid and the provision of a subsequent performance bond whereas the State form contains no such limits;
3. Maner’s bond is void when the Principal provides a subsequent performance bond whereas the State form requires both a performance and payment bond; and
4. The State form is specifically governed by the laws of the State of South Carolina and is governed by the “Dispute Resolution process” defined in the bidding documents and the statute whereas Maner’s bond form has no such provisions.

Maner’s bid bond did not meet the terms required of the bid bonds submitted to the State of South Carolina and therefore it was not eligible to be “cured.”

## **DETERMINATION**

In Protest of Accent Contracting, Inc., Case No. 2002-2, the Procurement Review Panel addressed the issue of a bidder offering the State a deficient bid bond. In that case, the protestant submitted a bid bond on Department of Transportation bid bond form 674, which is applicable to bids for road construction contracts, instead of form SE-335 required by the IFB. The Panel determined that the bid bond submitted by the protestant met the requirements regarding the amount (5%), surety rating, and financial strength, but it determined that the bid bond was deficient in other requirements of the SE-335, primarily the terms of coverage. The Panel denied the protest writing, "South Carolina Consolidated Procurement Code Section 11-35-3030(1) (c) did not entitle Accent to submit a corrected bid bond because the exceptions set forth therein are not applicable to the facts of this case." The Panel's reasoning in Accent is applicable to this case. Indeed, one of the major deficiencies that the Panel focused on in Accent is a major deficiency this case. The language of the bid bond submitted by Accent provided that the bond was void upon execution of a bid bond in the amount of 50% of the contract amount rather than 100% as required by SE-335. Similarly, the bid bond originally submitted by Maner provided the bond was void upon the execution of only a performance bond, not both a performance bond and a payment bond as required by SE-335. The other deficiencies of Maner's bid bond are equally material. As with Accent, Maner is not entitled to submit a corrected bid bond.

For the forgoing reasons, protest denied.



John St. C. White  
Chief Procurement Officer  
For Construction

16 April 08  
Date

Columbia, South Carolina

## STATEMENT OF THE RIGHT TO APPEAL

### **STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW**

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision under subsection (4) of this section shall be final and conclusive, unless fraudulent, or unless any person adversely affected by the decision requests a further administrative review by the Procurement Review Panel under Section 11-35-4410(1) within ten days of posting of the decision in accordance with Section 11-35-4210(5). The request for review shall be directed to the appropriate chief procurement officer, who shall forward the request to the panel, or to the Procurement Review Panel and shall be in writing, setting forth the reasons why the person disagrees with the decision of the appropriate chief procurement officer. The person may also request a hearing before the Procurement Review Panel.

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Additional information regarding the protest process is available on the internet at the following web site:  
[www.procurementlaw.sc.gov](http://www.procurementlaw.sc.gov)

**FILE BY CLOSE OF BUSINESS:** Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

**FILING FEE:** Pursuant to Proviso 66.1 of the 2005 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410(4). . . . Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of hardship, the party shall submit a notarized affidavit to such effect. If after reviewing the affidavit the panel determines that such hardship exists, the filing fee shall be waived." 2005 S.C. Act No. 115, Part IB, § 66.1. PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

**LEGAL REPRESENTATION:** In order to prosecute an appeal before the Panel, a business must retain a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003). Copies of the Panel's decisions are available at [www.state.sc.us/mmo/legal/paneldec.htm](http://www.state.sc.us/mmo/legal/paneldec.htm)

**White, John**

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**From:** Protest-OSE  
**Sent:** Monday, March 24, 2008 12:35 PM  
**To:** White, John; Langdon, Rachel  
**Subject:** FW: Protest CCU-FEN08-PTM

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From: Buzzy Boles[SMTP:WBOLES@MANER.COM]  
Sent: Monday, March 24, 2008 12:44:43 PM  
To: Protest-OSE  
Cc: kelly.still@maner.com  
Subject: Protest CCU-FEN08-PTM  
Auto forwarded by a Rule

Att: Margaret Jordan

We exercise our right to protest the Notice of Intent to Award Project:  
CCU-FEN08-PTM to Long Fence Co., Inc.

We submitted a Bid Security in the form of a Bid Bond with Power of Attorney in the amount of \$100,000.00 for the above project. Although we failed to submit the Bid Security on Form SE-335, we feel the Bid Bond we submitted clearly indicated our intentions to be bound by all Bid and Contract Documents.

When we realized our mistake, we immediately got our insurance company to fill out the correct form. It was mailed to us and we faxed it to the CCU Office of Facilities Management within 24 hours of the Bid Date. Based on the fact that CCU already had our Bid Bond and Power of Attorney, we felt that we had met the requirements of the Bid Documents.

We feel that we are the Apparent Low Bidder and should be considered both responsive and responsible.

Thank You for your consideration.

William W. Boles  
General Mgr.

Maner Builders Supply Co.  
PO Box 40516  
N. Charleston, SC 29423



SE-330  
Bid Form

07/01 Edition

EXH. B

*Bids shall be submitted only on SE-330*

BID SUBMITTED BY: Maner Builders Supply  
(Bidder's Name)

BID SUBMITTED TO: Coastal Carolina University  
(Agency Name)

FOR PROJECT: CCU - FEN08 - PM Picket Fencing around Watson Stadium - CCU  
(Number) (Name)

**OFFER**

1. In response to the Form SE-310, *Invitation for Construction Bids*, and in compliance with the *Instructions to Bidders* for the above-named Project, the undersigned **BIDDER** proposes and agrees, if this Bid is accepted, to enter into a Contract with the **AGENCY** in the form included in the Bidding Documents, and to perform all Work as specified or indicated in the Bidding Documents, for the prices and within the time frames indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2. Pursuant to Section 11-32-3030(1) of the SC Code of Laws, as amended, **BIDDER** has submitted Bid Security as follows in the amount and form required by the Bidding Documents:

☐ Bid Bond with Power of Attorney ☐ Electronic Bid Bond ☐ Cashier's Check

(**BIDDER** check one)

3. **BIDDER**, by submitting this Bid, affirms that it has carefully examined the Bidding Documents and the other related data identified in the Bidding Documents, has visited the actual location of the Work, has satisfied itself as to all conditions and understands that, in signing this Bid Form, it waives all rights to plead any misunderstanding regarding same and agrees to be bound by the provisions of said Bidding Documents and all statements made therein.

4. **BIDDER** acknowledges the receipt of the following Addenda to the Bidding Documents and has incorporated the effects of said Addenda into its Bid:

ADDENDUM No: \_\_\_\_\_

5. **BIDDER** accepts all terms and conditions of the *Invitation for Construction Bids*, including, without limitation, those dealing with the disposition of Bid Security. **BIDDER** agrees that this Bid, including all Bid Alternates, if any, may not be revoked or withdrawn after the opening of bids, and shall remain open for acceptance for a period of 60 Days following the Bid Date, or for such longer period of time that **BIDDER** may agree to in writing upon request of the **AGENCY**. **BIDDER** understands that Bid Alternates that are not accepted in an initial award shall remain open for acceptance for the entire period set above and for such longer period as requested by **AGENCY** and agreed to by **BIDDER**.

6. **BIDDER** herewith submits its offer to provide all labor, materials, equipment, tools of trades and labor, accessories, appliances, warranties and guarantees, and to pay all royalties, fees, permits, licenses and applicable taxes necessary to complete the following items of construction work:

**6.1 BASE BID WORK** (as indicated in the *Bidding Documents* and generally described as follows):

Carefully remove, which includes the removal of all concrete on each fence post and store all of the existing 1,000 L.F. of 8' H Chain-link fencing around Watson Stadium at Coastal Carolina University. The contractor is to provide and install a new picket fence for a length of 1,110 L.F., which will include five (5) personnel gates and seven (7) double gates, location to be determined later by the owner.

\$ 73,888.00 \*

(enter BASE BID in figures only)

, which sum is hereafter called the **BASE BID**.

\* EXCLUDES SALES TAX

## SE-330 Bid Form

### TIME OF CONTRACT PERFORMANCE

**BIDDER** hereby agrees to complete the construction work in accordance with the following schedule:

1. The **DATE OF COMMENCEMENT** shall be established in Form SE-390, *Notice to Proceed*. The **BIDDER** shall not incur any expense chargeable to this Project until the Contract has been executed by both the Agency and the Contractor, and a Notice to Proceed has been issued.
2. The **DATE OF SUBSTANTIAL COMPLETION**, to be documented on Form SE-550A, *Certificate of Substantial Completion*, shall be ( 87 ) **CALENDAR DAYS** from the **DATE OF COMMENCEMENT** set forth in the SE-390, subject to adjustments as provided in the Contract Documents.
3. The **DATE OF FINAL COMPLETION**, to be documented on Form SE-560C, *Certificate of Final Completion*, shall be ( 15 ) **CALENDAR DAYS** from the **DATE OF SUBSTANTIAL COMPLETION**, subject to adjustments as provided in the Contract Documents.

### LIQUIDATED DAMAGES AND EARLY COMPLETION AWARD

1. The undersigned further agrees that from the compensation to be paid, the Agency shall retain as **Step One Liquidated Damages** the amount of \$0.00 for each calendar day the actual construction time required to achieve **SUBSTANTIAL COMPLETION** exceeds the specified or adjusted Contract time for **SUBSTANTIAL COMPLETION**, as provided in the Contract Documents.
2. The undersigned further agrees that from the compensation to be paid, the Agency shall retain as **Step Two Liquidated Damages** the amount of \$0.00 for each calendar day the actual construction time required to achieve **FINAL COMPLETION** exceeds the specified or adjusted Contract Time for **FINAL COMPLETION**, as provided in the Contract Documents.
3. The undersigned further agrees that in full and complete satisfaction for the best efforts of the undersigned to achieve **SUBSTANTIAL COMPLETION** before the date established above, the Agency shall pay the undersigned an **Early Completion Award** in the amount of \$0.00 for each calendar day the actual construction time required to achieve **SUBSTANTIAL COMPLETION** is less than the originally specified Contract Time for **SUBSTANTIAL COMPLETION**, as provided in the Contract Documents.

### AGREEMENTS

By submitting this Bid, **BIDDER** hereby agrees to the following terms and conditions:

1. An incomplete Bid, or information not requested that is written on or attached to this Bid Form that could be considered a qualification of the Bid, may be cause for rejection of the Bid.
2. The failure of the **BIDDER** to indicate a price for a **BID ALTERNATE** shall render the Bid non-responsive. A **BID ALTERNATE** shall be bid by indicating either a dollar amount or the words "No Change", "Zero", or "0.00". A typed or printed "No Bid", or words of similar meaning, shall render the Bid non-responsive. **BIDDER** must indicate whether the amount of the **BID ALTERNATE** is an "ADD" to or a "DEDUCT" from the amount of the Base Bid. The Bid may be determined non-responsive for failure of the **BIDDER** to indicate the appropriate "ADD" or "DEDUCT" for each **BID ALTERNATE**, unless the adjustment is obvious to the Agency.
3. If any **BID ALTERNATES** should be accepted by the **AGENCY**, they shall be incorporated into the executed Contract. **BID ALTERNATES** may be accepted in any combination or order, at the sole discretion of the **AGENCY**.
4. The **BIDDER** shall list only **SUBCONTRACTORS** (as defined in the Bidding Documents) who are qualified to perform items of work as specified in the Bidding Documents or as required by any material or equipment substitutions approved at the time of bidding. No **BIDDER** whose Bid is accepted shall substitute another entity as **SUBCONTRACTOR** in place of the **SUBCONTRACTOR** listed in the original Bid, except for one or more of the reasons allowed by the SC Code of Laws.
5. The failure of the **BIDDER** to provide the name(s) of listed **SUBCONTRACTORS** in accordance with the SC Code of Laws shall render the Bid non-responsive.
6. Unless otherwise provided in the Bidding Documents, **BIDDER** will provide Performance and Labor and Material Payment Bonds, each in the amount equal to 100% of the Contract Award, as a condition of execution of the Contract. Failure to supply such bonds as required by the Contract Documents shall result in cancellation of the Notice of Intent to Award and forfeiture of the Bid Bond.

**SE-330 Bid Form**

7. **BIDDER** agrees to provide all information requested by the **AGENCY** to support the **AGENCY'S** evaluation and determination of the **BIDDER'S** responsibility, including completion of Form SE-350, *Questionnaire for Contractors*. The Questionnaire shall be completed fully and returned to the **AGENCY** within SEVEN (7) DAYS from date of receipt by the **BIDDER** by certified mail. The completed Form SE-350 must be received by the Agency no later than the close of business on the seventh day. Failure by **BIDDER** to supply requested information with respect to responsibility may be grounds for a determination of non-responsibility.

8. The **BIDDER** certifies that it will provide a "Drug-Free Workplace" as that term is defined in Section 44-107-30 of the SC Code of Laws, and shall comply with the requirements set forth in Title 44, Chapter 107.

9. At any time prior to the issuance of the Notice to Proceed for this Project, this Contract may be canceled for the convenience of the State.

10. Neither the State of South Carolina nor any of its agencies, employees or agents shall be responsible for any bid preparation costs, or any costs or charges of any type, should all bids be rejected or the Project canceled for any reason prior to the issuance of the Notice to Proceed.

**ELECTRONIC BID BOND**

By signing below, the Principal is affirming that the identified electronic bid bond has been executed and that the Principal and Surety are firmly bound unto the State of South Carolina under the terms and conditions of the Form SE-335 included in the Bidding Documents.

(Electronic Bid Bond Number)

(Signature and Title)

**BIDDER'S TAXPAYER IDENTIFICATION**

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER:

58-0585932

OR

SOCIAL SECURITY NUMBER:

**CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATIONS**

6400

(Classification)

(Subclassification)

(Limitations)

N/A for Fence

(SC Contractor's License Number)

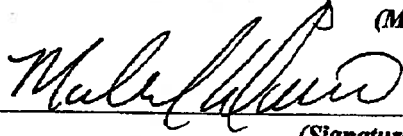
**SIGNATURE**

Maner Builders Supply

(Legal Name of Person, Firm or Corporation Submitting Bid)

7188 Cross County Road N. Charleston, SC 29418

(Mailing Address for the above)



BY

(Signature)

3/10/08

(Date)

Michael Dennis, Project Manager

(Title)

843-552-0242

(Phone)

**THE CINCINNATI INSURANCE COMPANY**

CINCINNATI, OHIO

**Bid Bond****PUBLIC CONTRACTS**

KNOW ALL MEN BY THESE PRESENTS, that we MANER BUILDERS SUPPLY CO INC AND MANER FENCE AND SPECIALTY PO BOX 204598 AUGUSTA, GA 30907

as Principal, hereinafter called the Principal, and THE CINCINNATI INSURANCE COMPANY, a corporation duly organized under the laws of the State of Ohio, as Surety, hereinafter called the Surety, are held and firmly bound unto Coastal Carolina University PO Box 261954 Conway, SC 295286054

as Oblige, hereinafter called the Oblige, in the sum of One Hundred Thousand Dollars

Dollars (\$ 100,000.00 ).

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for

CCU-FEN03-PTM Picket Fencing around Watson Stadium, SSU

Project # CCU FEN08 PTM

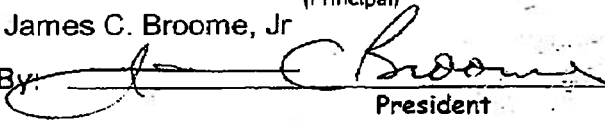
NOW, THEREFORE, if the Oblige shall accept the bid of the Principal within the period specified therein for acceptance (60 days if no period is specified) and the Principal shall enter into a contract with the said Oblige in accordance with the terms of said bid and give bond for the faithful performance thereof within the period specified (30 days if no period is specified); or if the Principal shall, in the case of failure to do so, indemnify the Oblige against any loss the Oblige may suffer directly arising by reason of such failure, not to exceed the penalty of this bond, then this obligation shall be null and void; otherwise to remain in full force and effect.

Signed and sealed this 17th day of March

2008

Maner Builders Supply Co Inc and Maner Fence and Specialty

James C. Broome, Jr (Principal) (Seal)

By:  President (Title)

THE CINCINNATI INSURANCE COMPANY

(Seal)

By: 

Preston A Moss

Attorney-in-Fact

## THE CINCINNATI INSURANCE COMPANY

Fairfield, Ohio

## POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY, a corporation organized under the laws of the State of Ohio, and having its principal office in the City of Fairfield, Ohio, does hereby constitute and appoint:

Cobbs G. Nixon; Preston A. Moss; Morris H. Moss;  
Ashley L. Smith; William Weston, IV and/or Patricia H. Partridge

of Augusta, Georgia its true and lawful Attorney(s)-in-Fact to sign, execute, seal and deliver on its behalf as Surety, and as its act and deed, any and all bonds, policies, undertakings, or other like instruments, as follows:

Any such obligations in the United States, up to  
Fifteen Million and No/100 Dollars (\$15,000,000.00).

This appointment is made under and by authority of the following resolution passed by the Board of Directors of said Company at a meeting held in the principal office of the Company, a quorum being present and voting, on the 5th day of December, 1973, which resolution is still in effect:

"RESOLVED, that the President or any Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 7th day of December, 1973.

"RESOLVED, that the signature of the President or a Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary or Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company."

IN WITNESS WHEREOF, THE CINCINNATI INSURANCE COMPANY has caused these presents to be sealed with its corporate seal, duly attested by its Senior Vice President this 1st day of August, 2004.



THE CINCINNATI INSURANCE COMPANY

*David L. McHardy*  
Senior Vice President

STATE OF OHIO ) ss:  
COUNTY OF BUTLER )

On this 1st day of August, 2004, before me came the above-named Senior Vice President of THE CINCINNATI INSURANCE COMPANY, to me personally known to be the officer described herein, and acknowledged that the seal affixed to the preceding instrument is the corporate seal of said Company and the corporate seal and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporation.



*Mark J. Holler*  
MARK J. HOLLER, Attorney at Law  
NOTARY PUBLIC - STATE OF OHIO  
My commission has no expiration date. Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Secretary of THE CINCINNATI INSURANCE COMPANY, hereby certify that the above is a true and correct copy of the Original Power of Attorney issued by said Company, and do hereby further certify that the said Power of Attorney is still in full force and effect.

GIVEN under my hand and seal of said Company at Fairfield, Ohio.

this 17th day of March, 2008



*Gregory J. Schilde*  
Secretary